

SLOVAKIA
Utility Model Law
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Section 1 Basic Provisions

Technical solutions which are new, exceed the framework of mere professional skill and are industrially applicable shall be protected as utility models.

Section 2

The following in particular shall not be deemed technical solutions:

- (a) discoveries, scientific theories and mathematical methods;
- (b) the mere appearance of products;
- (c) schemes, rules and methods for performing mental acts;
- (d) computer software;
- (e) mere presentations of information.

Section 3

The following shall not be protected as utility models:

- (a) technical solutions contrary to public interest, particularly the principles of humanity and morality;
- (b) plant or animal varieties and biological reproductive material;
- (c) production processes or work activities.

Section 4

(1) A technical solution shall be considered new if it does not form part of the state of the art.

(2) For the purposes of this Law, the state of the art shall be held to comprise everything made available to the public prior to the date on which the applicant claimed the right of priority (see Section 9).

(3) The state of the art shall not be held to comprise any disclosure of the applicant's work or that of his predecessor in title which occurred no earlier than six months before filing the application for a utility model.

Section 5

A technical solution shall be considered susceptible of industrial application if it can be used repeatedly in economic activities.

Section 6

(1) The right to utility model protection shall belong to the author or his successor in title.

(2) The author is the person who has made the utility model by means of his own creative work.

Section 7

Utility models shall be registered by the Industrial Property Office (hereinafter referred to as "the Office") in the Utility Model Register (hereinafter referred to as "the Register").

Section 8 Filing and Registration of a Utility Model

(1) Registration of a utility model shall be subject to the filing of a written application for a utility model (hereinafter referred to as the "application") with the Office.

(2) The application shall relate to one technical solution only or to a group of technical solutions so linked as to form a single inventive concept.

(3) The application shall contain the following:

(a) a request for registration in the Register, containing the title of the utility model;

(b) a description of the technical solution or relevant documentation;

(c) claims to protection giving a clear and concise definition of the subject matter for which utility model protection is sought.

(4) The application shall give the name of the author of the subject matter of the application.

(5) The application shall comply with a simple form and requirements published by the Office in the Official Bulletin (hereinafter referred to as the "Bulletin").

Section 9

(1) The priority right of the applicant shall begin with the filing of the application.

(2) The applicant shall be required to claim the right of priority under an international treaty already in his application and, at the same time, state the filing date of the application from which the right of priority derives, its number and the State in which the application has been filed

or the authority with which the application has been filed under an international treaty. At the request of the Office, the applicant must furnish evidence of this right within the stated time limit, failing which the priority right shall not be taken into consideration.

Section 10

(1) If the applicant has already sought in the Slovak Republic a patent at the same technical level, he shall be entitled to request in his application the recognition of the filing date of such application or any right of priority deriving therefrom. The Office shall afford the application for utility model protection the date of filing or of priority of the earlier patent application if the later application is filed within two months of the decision on the patent application and, at the latest however, within 10 years of its filing date.

(2) An applicant claiming rights under Section 1 shall be required – within a period of two months from filing the application for utility model protection – to submit a duplicate of the patent application the filing or priority date of which is claimed, failing which the right shall lapse.

(3) Failure to comply with a time limit prescribed in Subsection (1) may not be excused.

Section 11

(1) If the application fulfills the conditions stipulated in Section 8 and if its subject matter is not obviously contrary to Sections 2, 3 and 5, the Office shall record the utility model in the Register.

(2) Protection under this Law shall begin with the recording of the utility model in the Register. When recording the utility model in the Register, the Office shall issue to the applicant – who on registration becomes the owner of the utility model – a certificate of registration of the utility model in the Register. After recording the utility model in the Register, the Office shall publish the documentation referred to in Section 8(3)(b) and (c).

(3) If the application does not meet the requirements of Section 8, the Office shall request the applicant to remedy the defects within a prescribed time limit. If the applicant fails to remedy those defects within that time limit, the Office shall terminate prosecution of the application. When setting the above time limit, the Office shall inform the applicant

of that consequence.

(4) If the application contains subject matter referred to in Sections 2 and 3 or if the subject matter is obviously contrary to Section 5, the Office shall reject the application. The applicant shall be notified of such consequence prior to issuing the decision.

(5) Amendments and changes made to the application for utility model protection shall not extend beyond the content as originally filed.

(6) Up to the time the utility model is recorded in the Register, the applicant may divide his application for utility model protection. The Office shall afford to divisional applications the priority of the original application if the divisional applications do not extend beyond the scope of the original application and if they are filed within three months of a written communication by the applicant that he intends to divide the application as filed.

(7) At the request of the applicant, the Office shall postpone the recording of a utility model in the Register for a maximum period of 15 months from the date of filing.

Section 12 Effects of Utility Model

(1) No person may manufacture, place on the market or use in his economic activities a technical solution enjoying utility model protection without the consent of the owner of the utility model.

(2) The owner of the utility model shall be entitled to give his consent (license) to the use of a technical solution enjoying utility model protection to other persons or to transfer the utility model to them.

(3) Rights under a patent granted on the basis of a patent application having later priority may not be asserted in the event of a dispute without the consent of the owner of the utility model.

Section 13

(1) A utility model may not be invoked against persons who have used the technical solution enjoying utility model protection independently of the author or owner of the utility model before its priority date or who have verifiably undertaken measures to that end (hereinafter referred to as "prior users").

(2) If agreement is not reached, a prior user may apply to a court for recognition of his rights by the owner of the utility model.

Section 14

(1) Where no license agreement for the utility model has been concluded, the Office may grant a compulsory license:

(a) if the owner of the utility model does not work it at all or works it insufficiently and cannot give legitimate reasons for his failure to act; such compulsory license may not be granted prior to the expiration of four years as from the filing date of the utility model application or three years as from registration of the utility model, whichever period expires last;

(b) where an important public interest is endangered.

(2) The grant of a compulsory license shall not affect the right of the owner of the utility model to obtain compensation in respect of the value of the license.

Section 15 Term of Utility Model Protection

(1) The validity of utility model protection shall be four years as from the filing date of the utility model application or the filing date of an earlier patent application in respect of the same subject matter (Section 10).

(2) At the request of the owner of the utility model the Office shall extend the term of validity of the utility model registration for a further two three-year periods.

(3) Extension of the term of validity of the utility model may be applied for at the earliest during the final year of its validity.

(4) If the utility model is registered after expiration of the time limit set out in Subsection (1), the Office shall extend the term of validity of the utility model without a request from the owner of the utility model.

Section 16

Utility model protection shall lapse:

(a) on expiry of its term of validity;

(b) on relinquishment by the owner of the utility model; in such case, protection shall terminate as from the date on which the Office receives a written declaration to such effect by the owner of the utility model.

Section 17 Cancellation of Utility Model

(1) At the request of any person, the Office shall cancel the registration of a utility model if:

(a) its technical solution does not qualify for protection under Sections 1 and 3;

(b) the subject matter of the utility model is already protected by a patent or utility model enjoying earlier priority;

(c) the applicant or owner of the utility model is not a person entitled to protection under Section 6;

(d) the subject matter of the utility model extends beyond the content of the application as filed.

(2) The effect of cancellation of the registration of a utility model shall be as if the utility model had not been recorded in the Register.

(3) Cancellation of a utility model may also be carried out even after lapse of the utility model (Section 16) if the person filing the request can prove a legal interest.

Section 18

(1) A request for cancellation of the registration of a utility model shall be filed with the Office in two copies.

(2) A request for cancellation of the registration of a utility model shall be duly substantiated and the material proof on which the request is based shall be submitted at the same time.

(3) The Office shall invite the owner of the utility model to submit his comments on the request for cancellation of the registration within a stated time limit. The owner of the utility model shall submit his comments on the request for cancellation of the registration in writing and in two copies.

(4) If the owner of the utility model fails to submit his comments within the stated time limit, the Office shall cancel the registration.

(5) If the owner of the utility model opposes the cancellation of the registration within the stated time limit, the Office shall communicate the owner's comment to the person requesting cancellation of the registration and shall set a date for an oral hearing on the request.

(6) Failure of a party to the proceedings to attend the oral hearing on the request for cancellation of the registration shall not prevent the Office from taking a decision on the request.

(7) The Office shall award to the successful party to the proceedings for cancellation of the registration the costs incurred in asserting or defending his rights against the unsuccessful party, if such party applies for costs before a decision is taken on the request.

Section 19 Revocation of Protection

(1) The Office shall, at the request, revoke utility model protection if a court decision determines that the owner of the utility model was not entitled thereto under Section 6.

(2) A request for revocation of protection under Subsection (1) may only be filed by a person, or such person's successor in title, who has been determined by court decision to be entitled to utility model protection.

(3) At the request of the person entitled to utility model protection, filed within one month of the final court decision, the Office shall register such person as the owner of the utility model.

(4) If no request for transfer under Subsection (3) is filed, the Office shall cancel the utility model registration ex officio.

Section 20 Register

(1) The Office shall keep a Register in which it shall record the particulars of applications for utility model protection and of the registration of utility models.

(2) The following particulars for each utility model shall be entered in the Register:

(a) the number of the entry (certificate);

(b) the date of the entry;

(c) the date of publication of the utility model registration in the

Bulletin;

- (d) the title of the utility model;
- (e) the date of filing of the application and, where appropriate, the date of priority and the filing number of the application;
- (f) the identity of the applicant for the utility model (name of person or company) and address (headquarters) or of his representative;
- (g) the surname, given name and address of the author of the utility model;
- (h) the identity of the owner of the utility model (name of person or company) and address (headquarters) or of his representative;
- (i) rights of prior user;
- (j) the classification of the utility model under the International Patent Classification;
- (k) transfer of the utility model;
- (l) licenses;
- (m) compulsory licenses;
- (n) extension of the term of registration;
- (o) cancellation of the registration;
- (p) revocation or transfer of protection;
- (q) lapse of protection.

(3) The Office shall publish the particulars of utility models and any official communications and decisions of basic importance in the Bulletin.

Section 21 Final Provisions

(1) Except as otherwise provided by this Law, the general regulations on administrative procedure shall apply to proceedings in utility model matters, with the exception of the provisions concerning suspension of proceedings, sworn statements, time limits for decisions and measures concerning failure to act.

(2) The provisions of the Law on Inventions, Industrial Designs and Rationalization Proposals shall apply mutatis mutandis to rights in utility models, joint ownership relations, registration of utility model licensing agreements, transfer of utility models, relations with foreign countries, representation in proceedings before the Office, stay of proceedings, excusing failure to comply with deadline, inspection of documents, declaratory judgments, registration of utility models kept secret under special regulations, appeals proceedings and infringement of rights.

(3) The Office shall levy administrative fees for the individual legal acts performed under this Law.

Section 22

This Law shall enter into force on the day of its proclamation.